

### **REMARKS**

The allowance of claim 4 and the allowable nature of claims 3, 6, and 7 is acknowledged. Claims 3 and 6 have been rewritten in independent form and thus claims 3, 6, and 7 are now in condition for allowance.

Claims 1, 2, and 5 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,758,657 (McNaull). Claims 1 and 5 have also been rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent 6,568,926 (Mount). It is noted that these references both share a common inventor with the present application, and therefore the Applicant believes that each of the references can be overcome by filing a declaration of the inventor under 37 CFR 1.132 which would state that he conceived of the subject matter disclosed in the referenced patents to the extent, if any, that they could be construed as teaching the present invention. However, because the Applicant does not believe that the references anticipate the claims of the present application, such a declaration has been deemed unnecessary at this time. If the Examiner disagrees, the declaration will be filed at a later date.

In response to the Applicant's previously filed arguments, the Examiner has indicated that the references disclosing only a pump were sufficient to anticipate claims 1 and 5 because the claims called for an apparatus operable as a pump or a valve. While the Applicant does not necessarily agree with this interpretation of the claims due to the presence of the word "selectively", claims 1 and 5 have nevertheless been amended in view of these comments. Claims 1 and 5, as presently amended, now call for an apparatus which is selectively and alternatively operable as both a pump and a valve. In addition, the claim language defining the drive member has been amended to call for a drive member selectively and alternatively operable to both reciprocate the plunger and to position the plunger. Thus, the Applicant believes that the claim language now clearly defines a single apparatus that is adapted to alternatively operate as both a pump and a valve. Neither McNaull nor Mount disclose a device that is alternatively operable as both a pump and a valve.

The Examiner's response to the Applicant's previous arguments also indicated that the single valve assembly called for in the claims could be composed of a plurality of elements/components, and therefore the two valves shown in the prior art references are the equivalent of a single valve assembly. Although the Applicant does not agree with the Examiner's interpretation of the claim language, the claims have been amended in light of these remarks in a manner which should satisfy the Examiner. Specifically, claims 1 and 5, as amended, now call for a single valve having two separate control portions, as is clearly shown and described in the drawings and specification of the application. Claim 1 now calls for a single valve having a fluid inlet control portion and a fluid outlet control portion, and claim 5 now calls for a single valve having an umbrella portion between the fluid inlet and the pump chamber and a duckbill portion between the pump chamber and the fluid outlet. McNaull and Mount both fail to anticipate or render obvious the claims as currently amended as both devices use two valves and not a single valve, and neither teach a single valve having both an inlet control component (umbrella portion) and an outlet control component (duckbill portion).

Since this application now has four independent claims, a check for \$105.00 is enclosed. If this fee is not sufficient, the Commissioner is hereby authorized to charge payment of any additional fees associated with this communication to Deposit Account No. 18-0987.

In view of the foregoing, reconsideration of claims 1, 2, and 5, and the issuance of a formal Notice of Allowance of claims 1-7 is most earnestly solicited.

If any further issues remain after this amendment, a telephone call to the undersigned would be appreciated.

Respectfully submitted,



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